

**SEATTLE OFFICE FOR CIVIL RIGHTS
MINIMUM WAGE ORDINANCE**

NOVEMBER 2014



SEATTLE OFFICE FOR CIVIL RIGHTS

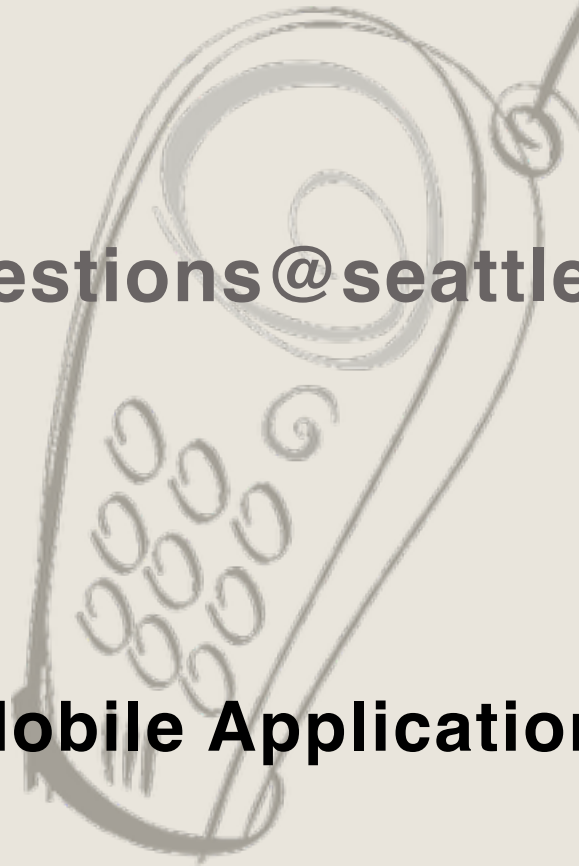
➤ Advancing Civil Rights & Removing Barriers to Equity

- Discrimination
- Office of Labor Standards
(PSST, JAO, MWO & Administrative Wage Theft Complaints)*
- Race and Social Justice Initiative
- Gender Justice Project
- Support for Five Independent Commissions

** In November 2014, City Council unanimously approved the Mayor's proposal for a centralized Office of Labor Standards within SOCR*

SUPPORT FOR EMPLOYERS & EMPLOYEES

- **Call 684-4500**
- **Email ocr_minwagequestions@seattle.gov**
 - **Tech Assistance**
 - **Presentations**
- ***New MWO Web site & Mobile Application**



RULES

➤ Areas of ordinance that need additional explanation

- Employer of record for temp workers
- Definition of work study
- Payment for minors

➤ Three Public Meetings

- Nov. 3 @ Bertha Landes Room in City Hall, 2 to 4 pm
- Nov. 5 @ New Holly Gathering Hall, 7 to 9 pm
- Nov. 13 @ North Seattle Community Center, 8 to 10 am

➤ Stakeholder Group

RULES

- **Draft for notice & comment = January 2015**
 - Publication, SOCR email list, SOCR Web site
 - Send comments by phone call, email, letter, meeting.
Interactive web site

- **Completion Date = Feb. or March 2015**

BASICS



SEATTLE OFFICE FOR
CIVIL RIGHTS

SEATTLE MINIMUM WAGE ORDINANCE

- Minimum wage and minimum compensation rates for employees performing work in Seattle
- Administered by a new Office of Labor Standards within SOCR
- Implementation date = April 1, 2015

APRIL 1, 2015

➤ Schedule 1 (Large Employers) - Min Wage

- ❖ \$11.00 per hour

- ❖ Cannot include payment toward medical benefits

➤ Schedule 2 (Small Employers) - Min Compensation

- ❖ Option A: \$11.00 per hour

- ❖ Option B: \$10.00 minimum wage per hour

 - Can include tips

 - Can include payment toward medical benefits

COVERED EMPLOYERS

- **Employers with employees working in Seattle**
- **Schedule size**
 - **Include all employees regardless of location**
 - **Count average number of employees employed per calendar week during the preceding calendar year or first 90 days of business**

COVERED EMPLOYEES

➤ Employee Definition

- SMC 12A.28.200
- Not Work Study

➤ Employees working in Seattle

- Occasional basis employees are covered if they work more than two hours in Seattle during a two-week period.

COVERED EMPLOYERS

➤ Large Employers - Schedule 1

- More than 500 employees in U.S.
- Regardless of employee location
- All franchisees with more than 500 employees in aggregate in U.S.

➤ Small Employers - Schedule 2

- 500 or fewer employees in U.S.

SEPARATE BUSINESSES THAT ARE RELATED

➤ Integrated Enterprise = Single Employer

- Degree of interrelation between the operations;
- Degree to which the entities share common management;
- Centralized control of labor relations; and/or
- Degree of common ownership or financial control over the entities.

➤ Exception

- Employers share some degree of interrelated operations and common management with one another, but
- Separate legal entities operate substantially in separate physical locations
- Each separate legal entity has partially different ultimate ownership.

WAGES & COMPENSATION



WAGE & MINIMUM WAGE

➤ Wage

- Includes commissions, piece-rate and non-discretionary bonuses
- Not tips and employer payments toward medical benefits plans

➤ Minimum Wage

- Wages, commissions, piece-rate, and & non-discretionary performance bonuses
- Actually received by employee and reported to IRS
- Not tips

MINIMUM COMPENSATION

➤ Minimum Compensation

- Minimum wage
- Can include tips actually received by employee and reported to IRS
- Can include money paid by employer towards an individual employee's medical benefits plan

MEDICAL BENEFITS

➤ Qualifying Medical Benefits Plan*

- ACA Silver or higher level essential health benefits package
- Equivalent plan that is designed to provide benefits that are actuarially equivalent to 70 percent of full actuarial value of benefits provided under plan
- Employee must actually receive the qualifying medical benefits

**Schedule 1 counts medical benefits for min wage in 2016*

** Schedule 2 counts medical benefits for min compensation in 2015*

SUBMINIMUM WAGES

- **Learners, Apprentices, Messengers, Workers with a Disability**
 - Workers are within categories defined in RCW 49.46.060
 - Employers can obtain “Special Certificate” from Director
 - Certificate allows employer to pay wage less than Seattle minimum wage but above state minimum wage
 - Employer must secure a letter of recommendation from L & I stating employer has demonstrated necessity defined in WAC 296-128

SUBMINIMUM WAGES

➤ Minors

- Under 18 years of age
- Director will establish wage for minors by administrative rule
- Minors can earn a percentage of the hourly rate for Seattle minimum wage/minimum compensation that is not be lower than percentage for state minimum wage.

➤ Rule for state minimum wage (WAC 296-125-043)

- 16-17 years old earn 100% of state min wage
- 14-15 years old earn 85% of state min wage

MINIMUM WAGE & COMPENSATION SCHEDULES



2015 & 2016



SCHEDULE 1 – LARGE EMPLOYERS

➤ 2015 Minimum Wage

- \$11.00 per hour
- Cannot include payment toward medical benefits

➤ 2016 Minimum Wage

- ❖ Option A: No payment toward medical = \$13.00 per hour
- ❖ Option B: Payment toward medical = \$12.50 per hour

SCHEDULE 2 – SMALL EMPLOYERS

➤ 2015 Minimum Compensation

- ❖ Option A: \$11.00 per hour
- ❖ Option B: \$10.00 minimum wage per hour
 - Can include tips
 - Can include payment toward medical benefits

➤ 2016 Minimum Compensation

- ❖ Option A: \$12 per hour
- ❖ Option B: \$10.50 minimum wage per hour
 - Can include tips
 - Can include payment toward medical benefits

2015 & BEYOND



SCHEDULE 1 – MIN WAGE, NO MEDICAL

➤ Schedule 1 – Minimum wage with no medical benefits

Hourly minimum wage steps up to \$15 per hour in three years

- \$11.00 by April 1, 2015
- \$13.00 by January 1, 2016
- \$15.00 by January 1, 2017

Effective January 1, 2018, hourly minimum wage is increased annually on percentage basis to inflation rate & calculated to nearest cent on January 1 of each following year.

SCHEDULE 1 – MIN WAGE, MEDICAL

➤ Schedule 1 – Minimum wage with medical benefits

Hourly minimum wage steps up to \$15 per hour in four years. A qualifying medical plan must be equivalent of a silver plan or higher as defined in the federal Affordable Care Act.

- \$11.00 by April 1, 2015
- \$12.50 by January 1, 2016
- \$13.50 by January 1, 2017
- \$15.00 by January 1, 2018

Effective January 1, 2019, employer payment of health benefits for employees no longer affects hourly minimum wage.

SCHEDULE 2 – MIN COMPENSATION

➤ Schedule 2 - Minimum Compensation

Hourly minimum compensation steps up to \$15 per hour in 5 years & includes wages, tips and employer payments toward medical benefits plan.

- \$11.00 by April 1, 2015
- \$12.00 by January 1, 2016
- \$13.00 by January 1, 2017
- \$14.00 by January 1, 2018
- \$15.00 by January 1, 2019
- \$15.75 by January 1, 2020

Effective January 1, 2025, minimum compensation will no longer be applicable.

SCHEDULE 2 – MIN WAGE

➤ Schedule 2 - Minimum Wage

Hourly minimum wage steps up to \$15 per hour in 7 years.

- \$10.00 by April 1, 2015
- \$10.50 by January 1, 2016
- \$11.00 by January 1, 2017
- \$11.50 by January 1, 2018
- \$12.00 by January 1, 2019
- \$13.50 by January 1, 2020
- \$15.00 by January 1, 2021
- \$15.75 by January 1, 2022
- \$16.50 by January 1, 2023
- \$17.25 by January 1, 2024

Effective January 1, 2025, “Schedule 2” hourly minimum wage equals “Schedule 1” hourly minimum wage

NOTICE & RECORD KEEPING



NOTICE & POSTING

➤ Notice Requirements

- 1. Entitlement to minimum wage and minimum compensation**
- 2. Prohibition against retaliation**
- 3. Ability to file administrative complaint for employer's failure to pay minimum wage or minimum compensation or for retaliation**

NOTICE & POSTING

➤ Language

- Notice must be in English, Spanish and any other language commonly spoken by employees at the particular workplace.

➤ Poster

- City of Seattle poster meets notice requirements
- Poster must be displayed in a conspicuous place at any workplace or job site where any covered employee works.

RECORD KEEPING

➤ Record Keeping

- Payroll records for covered employees
- Minimum wages & minimum compensation paid to each employee
- Three Years

RETALIATION



RETALIATION IS PROHIBITED

- **Employee's Assertion of MWO rights = Protected Activity**
- **No Adverse Actions or Discrimination**
 - Unlawful for employer to take adverse action or discriminate against employees who asserts their rights to minimum wage and minimum compensation in good faith.
- **No Threats to Report Employee's Immigration Status**
 - Unlawful for employer to communicate to a person filing a wage claim, directly or indirectly, explicitly or implicitly, the willingness to inform a government employee that employee is not lawfully in U.S., or report or threaten to report suspected citizenship or immigration status of an employee or a family member to a federal, state or local agency.

ENFORCEMENT



REMEDY & PENALTIES

Violation	Remedy or Penalty
<i>All Violations</i>	<i>Back Wages + Interest</i>
<i>First Violation</i>	<i>Warning and up to \$500</i>
<i>Second Violation</i>	<i>Up to \$1000 per employee or 10% of unpaid wages, whichever is greater</i>
<i>Third Violation</i>	<i>Up to \$5,000 per employee or 10% of unpaid wages, whichever is greater</i>
<i>Subsequent Violation</i>	<i>Up to \$20,000 per employee</i>
<i>(Willful) Notice – First Violation</i>	<i>\$125</i>
<i>(Willful) Notice – Subsequent</i>	<i>\$250</i>
<i>(Willful) Interference</i>	<i>\$1000 to \$5000</i>

ENFORCEMENT

- **First Year = Outreach & Education**
- **Full remedy for workers**
- **No employer penalties unless pattern of violation or otherwise egregious conduct**

ENFORCEMENT MECHANISMS

➤ **Advisory Letter**

- **Employee is not identified**
- **30 Days for employer to contact SOCR and resolve**

ENFORCEMENT MECHANISMS

➤ Individual Charge

- Employee is identified
- Formal Investigation

➤ Director's Charge

- Employee is not identified
- Director has reason to believe that violation occurred
- Company-wide investigation

FUTURE - ENFORCEMENT MECHANISMS

➤ Directed Investigation

- Agency-initiated investigation without employee complaint
- Criteria
 1. Sectors with large numbers of vulnerable workers
 2. Sectors where workers would be reluctant to step forward
 3. Sectors where proactive action would be likely to change employers' behavior on a large and long-lasting scale.

➤ Research by Dr. David Weil (federal wage & hour) = directed investigations yield 10% fewer violations, but significantly higher back wages (about \$13,000 more back wages per investigation).

SEATTLE OFFICE FOR CIVIL RIGHTS
<http://www.seattle.gov/civilrights/minimumwage.htm>
206-684-4500

